

APPENDIX F

NEW YORK STATE DEPARTMENT OF MOTORVEHICLES
REGULATIONS,

15 NYCRR PART 79

State of New York }
Department of State } ^{ss:}

It is Hereby Certified, that the attached is a true copy of an amendment to 15 NYCRR Part 79 as filed with the Secretary of State on September 9, 2008 effective September 24, 2008.

WITNESS my hand and the official seal of the Department of State at the City of Albany this thirtieth day of September two thousand eight.



First Deputy Secretary of State



MTV-30-08-00006-A
eff. 9.24.08

CERTIFICATION

000858

I hereby certify that the attached amendment to Part 79 of Title 15 of the Official Compilation of Codes, Rules and Regulations of the State of New York was duly adopted by David J. Swarts, Commissioner of Motor Vehicles, pursuant to the authority contained in Sections 215(a), 301(a), 301(c), 301(d), 301(f), 302(a), 302(e), 302(f), 304(b) and 304-a of the Vehicle and Traffic Law. This amendment shall be effective upon publication of a Notice of Adoption in the State Register.

Notice of Proposed Rule Making for this amendment was published in the State Register on July 23, 2008 under ID No. MTV-30-08-00006-P. No other publication of prior notice was required by statute.


COMMISSIONER OF MOTOR VEHICLES

Albany, New York
September 9, 2008

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED SEP 09 2008

with the
Division of Administrative Rules

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ADMINISTRATIVE RULES
DEPARTMENT OF STATE

STATE OF NEW YORK

DEPARTMENT OF MOTOR VEHICLES

Pursuant to the authority contained in Sections 215(a), 301(a), 301(c), 301(d), 301(f), 302(a), 302(e), 302(f), 304(b) and 304-a of the Vehicle and Traffic Law, the Commissioner of Motor Vehicles hereby amends the Regulations of the Commissioner of Motor Vehicles as follows:

* * * * *

Subdivision (h) of section 79.1 is amended to read as follows:

(h) *Official inspection station (fleet)*. Any person, association or corporation having more than 25 motor vehicles registered in its name which has been issued a license by the Commissioner of Motor Vehicles to conduct inspections of motor vehicles registered in its name or leased by it for a period greater than 30 days and motor vehicles owned by its employees; or any [municipality] state agency or political subdivision having more than five motor vehicles registered in its name which has been issued a license by the Commissioner of Motor Vehicles to conduct inspections of motor vehicles registered in its name or leased by it for a period greater than 30 days[;] and motor vehicles registered in the name of any state agency or political subdivision. [certain vehicles of other municipalities as set forth in section 79.15 of this Part.]

* * * * *

Section 79.1 is amended by adding new subdivisions (n), (s), (z) and (aa) to read as follows:

(n) [*Reserved.*] NYTEST receiving station. A licensed official high enhanced emissions public inspection station that meets the requirements set forth in section 79.16 of this Part and has elected to accept requests for safety/high enhanced emissions inspections (transient and idle tests) that have been referred by approved NYTEST sending station(s). A NYTEST receiving station is a voluntary participant in the NYTEST shared network.

(s) [*Reserved.*] NYTEST sending station. A licensed official high enhanced emissions public inspection station that has applied to and has received approval from the Department of Motor Vehicles to refer requests for safety/high enhanced emissions inspections (transient and idle tests) to NYTEST receiving station(s). A NYTEST sending station is a voluntary participant in the NYTEST shared network.

(z) Shared network agreement. A written contract or agreement between a NYTEST sending station and a NYTEST receiving station that establishes their contractual obligation to participate in the NYTEST shared network.

(aa) NYTEST shared network. A voluntary program available to licensed official high enhanced emissions public inspection stations located in the New York Metropolitan Area. The two types of participants in the program, NYTEST receiving stations and NYTEST sending stations, are subject to modified requirements in fulfilling their obligations to the NYTEST high enhanced emissions inspection program. The administration of the NYTEST shared network program is at the discretion of the Commissioner of Motor Vehicles, to include, but not limited to: the approval of stations to participate in the program; the timeframe for approval of any application to participate in the program; and the number of stations permitted to participate in the program.

Subdivision (a) of section 79.2 is amended to read as follows:

(a) All motor vehicles registered in this State must be inspected in accordance with the provisions of this Part unless expressly excluded by subdivision[s] (d) [and (e)] of this section.

Paragraph (3) of subdivision (b) of section 79.2 is amended to read as follows:

(3) Registered dealers do not have to inspect vehicles classified on the certificate of sale, MV-50, as "chassis", "FDD" (factory direct delivery), "O of S" (out of state), "junk[,]", "long term lessee" [lease buyout] (lease buyout), ["] or "wholesale." Such indication should appear in the inspection block on the MV-50.

Subdivision (g) of section 79.2 is amended to read as follows:

(g) A vehicle registered with [official] "OFFICIAL" plates or [State] "STATE" plates shall be subject to the same inspection it would be subject to if it were privately owned and registered.

Paragraph (1) of subdivision (h) of section 79.2 is amended to read as follows:

(1) emergency vehicles as defined by section 101 of the Vehicle and Traffic Law. These include: ambulances, police vehicles, correction vehicles, fire vehicles, civil defense emergency vehicles, emergency ambulance service vehicles, blood delivery vehicles, county emergency medical services vehicles, environmental emergency response vehicles, sanitation patrol

vehicles, hazardous materials emergency vehicles, and ordnance disposal vehicles of the armed forces of the United States;

Paragraph (5) of subdivision (h) of section 79.2 is amended to read as follows:

(5) special purpose commercial vehicles as set forth in Section 401(7)(F)(a) of the Vehicle and Traffic Law. *(Note: Special purpose commercial vehicles are exempt from the safety inspection.)*]; and]

Subdivision (a) of section 79.8 is amended to read as follows:

(a) An [applicant for a license for an] official inspection station [obligates himself] licensee is obligated to inspect vehicles in accordance with these regulations. By issuing a certificate of inspection, the licensee certifies that:

Paragraph (1) of subdivision (b) of section 79.8 is amended to read as follows:

(1) to conduct, as promptly as possible, a thorough and efficient inspection of any vehicle, including a vehicle registered in another state, which the station is qualified to inspect, and which is presented to the station for an official inspection. Such inspection must be performed in the manner prescribed; provided however, a NYTEST sending station is not qualified to inspect vehicles that are subject to a safety/high enhanced emissions inspection (transient and idle test). All requests presented to a sending station for safety/high enhanced emissions inspections must be presented or referred to a NYTEST receiving station;

Paragraph (4) of subdivision (b) of section 79.8 is amended to read as follows:

(4) to make these regulations and procedures available to all personnel that are certified to [make] perform inspections;

Subdivision (c) of section 79.8 is amended to read as follows:

(c) The inspection station will make an appointment when [the] any vehicle that the station is qualified to inspect cannot be inspected in a convenient time span. In addition, upon request of a vehicle owner or operator, a NYTEST sending station shall set up an appointment

for a safety/high enhanced emissions inspection (transient or idle test) with a network NYTEST receiving station on behalf of the vehicle owner or operator.

Paragraph (1) of subdivision (c) of section 79.8 is amended to read as follows:

(1) When the inspection station is unable to inspect a vehicle within a time span convenient to the vehicle owner or operator, or, if a vehicle owner or operator requests that a NYTEST sending station set up an appointment on the vehicle owner's or operator's behalf, the inspection station shall set up an appointment for performing the inspection. The appointment shall be in writing and [on the inspection station's letterhead. The appointment notice] shall include:

Subparagraphs (iv) and (v) of paragraph (1) of subdivision (c) of section 79.8 are amended to read as follows:

(iv) the name and address of the vehicle owner; [and]

(v) the signature of the inspection station licensee or [his] a designated employee[.]; and

A new subparagraph (vi) is added to paragraph (1) of subdivision (c) of section 79.8 to read as follows:

(vi) the place that the vehicle is to be presented for the future inspection appointment, including the facility name, address and telephone number.

Paragraph (3) of subdivision (c) of section 79.9 is amended to read as follows:

(3) The commissioner may waive the dimension standards for a public inspection station [which] that was licensed prior to January 1, 1990, where there is an undue hardship or such waiver is in the public interest because of a lack of heavy vehicle inspection stations in an area. However, no waiver will permit a station to inspect a vehicle which cannot fit into its building.

Subparagraphs (i), (ii) and (iii) of paragraph (1) of subdivision (d) of section 79.9 are amended to read as follows:

(i) a one-hole paper punch[,] that produces a round hole, one-quarter [1/4 to 1/2] inch in diameter;

(ii) a tire tread depth gauge calibrated in [32nds] thirty-seconds of an inch; and

(iii) a tire pressure gauge calibrated in lbs./sq. in. per square inch (psi).

* * * * *

Paragraph (2) of subdivision (d) of section 79.9 is amended to read as follows:

(2) In addition to the equipment specified in paragraph 1 of this subdivision, an official low enhanced emissions inspection station and an official high enhanced emissions inspection station must also have the appropriate computerized vehicle inspection system (CVIS), approved by the Department of Environmental Conservation and the Department of Motor Vehicles, capable of performing OBD II and low enhanced emissions inspections. This equipment, which shall be known as the NYVIP CVIS, shall include but may not be limited to:

(i) computer;

(ii) controlling software;

(iii) communications link prescribed by DEC and DMV;

(iv) printer;

(v) a DEC and DMV approved OBD II scan tool with appropriate connectors and software;

(vi) bar code scanner; and

(vii) a dedicated phone line for transmission of all inspection data. An enhanced emissions station that has more than one CVIS unit must maintain at least one phone line dedicated for use by the CVIS; this line may be shared by other CVIS units. No line(s) used by CVIS unit(s) may be shared by any other equipment.

This equipment shall be delivered and installed in official low enhanced emissions inspection stations and official high enhanced emissions inspection stations as directed by the commissioner.

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Subparagraph (vi) of paragraph (3) of subdivision (d) of section 79.9 is repealed:

(vi) [camera;] Reserved.

Subparagraphs (i), (ii), (iii) and (iv) of paragraph (5) of subdivision (d) of section 79.9 are amended to read as follows:

- (i) a measuring device for brake adjustment, such as a steel scale or ruler or equivalent;
- (ii) a one-sixteenth inch feeler gauge or equivalent;
- (iii) a brake drum gauge or equivalent, capable of measuring up to a twenty-four inch drum; and
- (iv) a rotor thickness gauge, such as a disc brake micrometer with a range from one inch to two inches, or equivalent.

Paragraphs (6) and (7) of subdivision (d) of section 79.9 are amended to read as follows:

(6) Official emissions inspection stations must maintain their printers so that reports and other required documents print legibly and clearly. In addition, official high enhanced emissions inspection stations (excluding approved NYTEST sending stations) must maintain the sticker printer and replace the printer ribbon/ink cartridge on a regular basis so that stickers are legible for as long as the sticker is valid.

(7) [For official high enhanced emissions inspection stations, the NYTEST camera and recording device must be maintained in such a manner that all dynamometer and idle inspections will be properly recorded, making it possible to identify the subject vehicle by make, model, color, and where possible, license plate. Failure to so maintain the video system, or any act that would prevent the inspection from being properly recorded, will be a violation of this section. Access to the recording device shall be limited to agents of the Department of Motor Vehicles and representatives of the analyzer's manufacturer. The Department of Motor Vehicles shall retain the right to view and/or examine the video record, and to retrieve and/or exchange the recording media as necessary during any audit or investigation of the inspection station. Such video record shall be part of the record of inspection at the inspection station.] Reserved.

A new subdivision (e) is added to section 79.9 to read as follows:

(e) [*Reserved*] Waivers of equipment requirements.

(1) Any licensed official high enhanced emissions public inspection station that makes application to and has received approval from the Department of Motor Vehicles to become a NYTEST sending station is exempted from the requirement to maintain and operate the NYTEST CVIS.

(2) Any licensed official heavy vehicle fleet inspection station is exempted from the requirement to have a brake drum gauge capable of measuring up to a twenty-four inch drum, if there are no vehicles in that particular fleet that are equipped with brake drums of that size. The station is required to have and maintain a brake drum gauge capable of measuring the largest brake drums found in that particular fleet of vehicles at any time. If a vehicle is added to the fleet that is equipped with larger brake drums, the station must immediately acquire and maintain a brake drum gauge capable of measuring the larger brake drums.

(3) Any licensed official heavy vehicle fleet inspection station is exempted from the requirement to have a rotor thickness gauge, if there are no vehicles in that particular fleet that are equipped with disc brakes. However, if a vehicle is added to the fleet that is equipped with disc brakes, the station must immediately acquire and maintain a rotor thickness gauge.

Paragraphs (1), (2) and (3) of subdivision (f) of section 79.9 are amended to read as follows:

(1) [A person] Individuals will not be deemed to be [a] certified motor vehicle [inspector] inspectors unless [he or she has] they have a currently valid certified motor vehicle inspector's certificate, issued in accordance with section 79.17 of this Part.

(2) [A person who has] Individuals who have been issued a certified motor vehicle inspector's certificate may be employed at any official inspection station for the purpose of inspecting only those vehicles appropriate to the type of vehicle [he is] they are allowed to inspect as it appears upon [his] their certificate and appropriate to the type of vehicle allowed to be inspected by such official inspection station.

(3) An automotive facilities inspector or any other agent appointed by the commissioner is authorized to test certified motor vehicle inspectors for competency where reasonable grounds exist to believe that the inspector is incompetent in conducting inspections of vehicles. If an inspector fails to pass such test, [he or she] such inspector will be deemed incompetent, and will not be permitted to conduct further inspections until a subsequent special written examination authorized by the commissioner is passed. If the certified motor vehicle inspector fails the special written examination, the commissioner shall revoke the inspector's certificate. The certified motor vehicle inspector's certificate may be reinstated when the inspector certification training program is successfully completed and the written examination of such program is passed.

Subdivision (b) of section 79.15 is amended to read as follows:

(b) Trailer only dealer stations - Dealers registered under section 415 of the Vehicle and Traffic Law, engaged in the business of selling trailers may qualify for an official inspection